

IN PARLIAMENT
HOUSE OF COMMONS
SESSION 2013–14

HIGH SPEED RAIL (LONDON - WEST MIDLANDS) BILL

PETITION

Against – on merits – Praying to be heard in Person

To the Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled.

THE HUMBLE PETITION of Mr AMIT GREEN and Mrs JANE TOBIN GREEN

SHEWETH as follows:-

1. A Bill (hereinafter referred to as “the Bill”) has been introduced and is now pending in your honourable House entitled “A Bill to make provision for a railway between Euston in London and a junction with the West Coast Main Line at Handsacre in Staffordshire, with a spur from Old Oak Common in the London Borough of Hammersmith and Fulham to a junction with the Channel Tunnel Rail Link at York Way in the London Borough of Islington and a spur from Water Orton in Warwickshire to Curzon Street in Birmingham; and for connected purposes”
2. The Bill is presented by Mr Secretary McLoughlin, supported by the Prime Minister, the Deputy Prime Minister, Mr Chancellor of the Exchequer, Secretary Theresa May, Secretary Vince Cable, Secretary Iain Duncan Smith, Secretary Eric Pickles, Secretary Owen Paterson, Secretary Edward Davey, and Mr Robert Goodwill. .
3. Clauses 1 to 36 set out the Bill's objectives in relation to the construction and operation of the railway mentioned in paragraph 1 above. They include provision for the construction of works, highways and road traffic matters, the compulsory acquisition of land and other provisions relating to the use of land, planning permission, heritage issues, trees and noise. They include clauses which would disapply and modify various enactments relating to special categories of land including burial grounds, consecrated land, commons and open spaces, and other matters, including overhead lines, water, building regulations and party walls, street works and the use of lorries.

4. Clauses 37 to 42 of the Bill deal with the regulatory regime for the railway.
5. Clauses 43 to 65 of the Bill set out a number of miscellaneous and general provisions, including provision for the appointment of a nominated undertaker ("the Nominated Undertaker") to exercise the powers under the Bill, transfer schemes, provisions relating to statutory undertakers and the Crown, provision about the compulsory acquisition of land for regeneration, reinstatement works and provision about further high speed railway works. Provision is also made about the application of Environmental Impact Assessment Regulations.
6. The works proposed to be authorised by the Bill are specified in clauses 1 and 2 of and Schedules 1 and 2 to the Bill. They consist of scheduled works, which are described in Schedule 1 to the Bill and other works, which are described in clause 2 of and Schedules 2 and 3 to the Bill.
7. Schedule 5 of the Bill lists land shown on the deposited plans which is "**to be acquired for particular purposes**" as set out in the schedule. The land can be acquired for the stated purpose in the schedule but it is not limited to the stated purpose, by implication land may be acquired for any purpose provided that the land is numbered on the deposited plans and listed in Schedule 5.
8. Schedule 15 lists land shown on the deposited plans which is subject to "**temporary possession and use of land**" under the Bill. King Henrys Road (both the road and the pavement) is land numbered 412 on the deposited plans and is listed under schedule 15, part 4 (land which may be "occupied and used for construction of works").
9. 58b King Henrys Road, London NW3 3RP ("our Property") is the family home of your petitioners. Our town house is part of a terrace of 11 houses built in the 1970s, we have lived in our Property since 2001 and raised our young family in this house since the birth of our 3 children.
10. Despite our Property being approximately 300m away from the safeguarded route of the HS2 tunnel your Petitioners are directly and specifically affected by the Bill.
11. Our Property is numbered 403 on the deposited plans (sheet 1-07) and listed in Schedule 5 of the Bill (p182 of Volume 2). Our house is not within the land numbered 403, however the entirety of the land which we own between the front wall of our house and the back line of the public pavement is listed in schedule 5 and the deposited plans. This land parcel includes our off street parking space, bin store and the path to our front door. If land parcel 403 is compulsorily acquired we would not be able to enter our house without trespassing over the acquired land.
12. Our Property is part of a run of 11 similar parcels of land (numbered 401 to 411) which are all listed together in Schedule 5 of the Bill. These land parcels

cover the entirety of land between our terrace of 11 houses and the public pavement. If this land is acquired and a construction hoarding was erected around the land then it would be impossible to enter any of the houses in the terrace.

13. Under schedule 5 the purpose for which the land numbered 401 to 411 may be acquired or used is "Diversion of, or works to, utilities apparatus." The use of the land is not limited to this stated purpose as noted in paragraph 7 above.
14. Your petitioners have reviewed the Environmental Statement (ES) to fully understand the reason for the acquisition of land parcels 401 to 411. CFA Volume 2 – Map Book includes the land numbered 401 to 411 in a pink outline which the key on the map states is "**land potentially required during construction**".
15. While the ES states that the land is "**potentially**" required **during construction** schedule 5 of the Bill does not make any provision for compulsory acquisition of land 401 to 411 on a temporary basis (ie only to enable and for the duration of construction).

There is clearly a contradiction between the ES and the Bill, both cannot be correct and an unnecessary hardship is being inflicted on the owners of land parcels 401 to 411 including your petitioners at 403 as a result of this error. Your petitioners respectfully asked that the mistake be corrected on the appropriate document before this Bill is approved by the House. There must be absolute clarity on how long the land at 401 to 411 is required and for what purpose.

16. CFA3 has no specific information on 401 to 411 or indeed on King Henrys Road. There is only very brief and vague information on utility diversions in CFA3 where paragraph 2.3.8 states:

"...Utility works not linked to vent shaft sites that will involve intrusive works requiring excavation in roads include: the A4201 Parkway water mains; the Middle Level No.2 Sewer¹⁷ in the Gloucester Avenue area; the sewer replacement between Princess Road and St Mark's Square and a water main diversion at B507 Abbey Road."

There is a further mistake in the ES - footnote ¹⁷ in clause 2.3.8 above is not correct because there are no further details provided in the ES clause 13 regarding the Middle Level No.2 Sewer.

King Henry's Road is not mentioned at all in the paragraph 2.3.8 above and yet our Property and the entire terrace of 11 houses are all to have their front yards acquired under compulsory purchase powers (CPO) in order to divert utilities. King Henry's Road is mentioned in visual assessments but not in relation to the CPO powers being imposed on our houses. There is simply no justification or explanation in any HS2 documents of why CPO powers under

schedule 5 (permanent acquisition of land) is required for our terrace of 11 houses.

17. Your petitioners requested further information (as the published data was clearly insufficient) from the HS2 Enquiries team. We have been provided with the following response on an email dated 6th December 2013:

Dear Mr. Green,

Thank you for your email.

I forwarded your email to one of our senior engineers and he has come back with the following replies to your questions:

1. Does HS2 require the land on a permanent or a temporary basis? HS2 Ltd response: Temporary basis.
 - a. If on a temporary basis will the land be returned back to its original owner once completed? HS2 Ltd response: Yes
2. Will HS2 instruct its contractors to allow access to the house (numbered 58c King Henry's Road) if possible during the "diversion or installation of, or works to, utilities apparatus"? HS2 Ltd response: These works are likely to be relatively minor works within the footpath which could prevent vehicular access to the forecourt on a short term basis. However, pedestrian access to the house will be maintained.

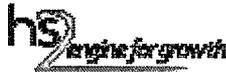
I trust that you have found these answers satisfactory.

Kind regards,

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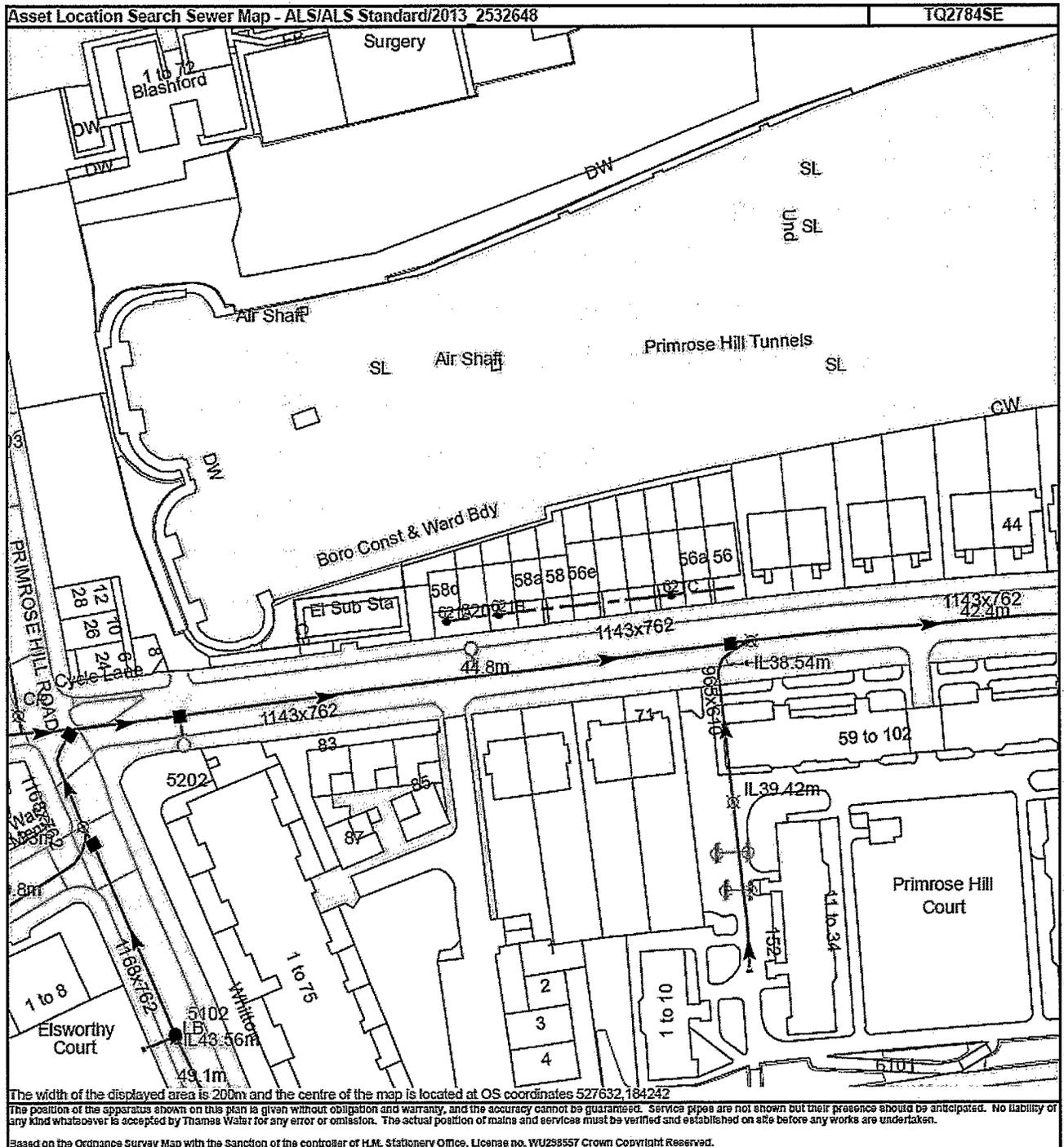
18. Further detailed information has been provided by an HS2 engineer at a Camden Council organised meeting on CFA3 to explain the proposed works:

HS2 require CCTV Surveys of all the adopted drains on King Henry's Road in order to establish if they are vulnerable to cracking from earth movement / shrinkage brought about by the subterranean tunnelling works some 300m away. The engineer went on to explain that if the survey results showed that the drains were susceptible to cracking then the most likely outcome would be that the drains would be sleeved. This sleeving work could be done below ground via existing manholes without intrusive works to the surface.

The above information was provided verbally at a public meeting and HS2 have not provided this level of detail officially in writing.

19. It is plainly not necessary to compulsory acquire land parcels 401 to 411 (including our Property) under the powers set out in schedule 5 simply to carry out a CCTV survey of the publicly acquired drains on King Henry's Road.

20. It is not necessary to compulsory purchase land parcels 401 to 411 (including our Property) in order to perform non intrusive works including the insertion of a sleeve into the existing adopted drains.
21. Thames Water have adopted the drains in front of our Property and the entire terrace (see map below). Thames Water have the statutory right to carry out any works necessary to their adopted drains including CCTV surveys and the sleeving of drains and any other repairs or replacement needed to their adopted drains.



22. There is an apparent contradiction between the permanent possession of land being sought under schedule 5 for our Property (403) when compared to the road that serves our property (412) where temporary possession is sought instead. King Henrys Road (412) is listed under schedule 15 part 4 - the road is to be acquired on a temporary basis for the "provision of drainage and associated works". The drainage and associated works are exactly the same in the road as they are in our drive and yet one requires permanent possession and the other temporary without any justification as to why.
23. It would be perfectly reasonable for HS2 to indemnify Thames Water and to pay for works on the Thames Water drains without having to compulsorily acquire the land on which the adopted drains sit.
24. Alternatively HS2 could compulsorily purchase the Thames water drains instead of our Property or any of the other land parcels numbered 401 to 411. There has been no justification as to why the land around the adopted drains needs to be compulsorily acquired when it is only the drains which are affected.
25. Schedule 15 of the Bill relates to "Temporary possession and use of land", your petitioners suggest that the works described by the HS2 engineer in paragraph 17 and 18 would not require permanent possession of land parcel 401 to 411 (including our Property at 403). It would cause much less suffering and loss to the owners of these properties if the land numbered 401 to 411(including 403) were compulsorily acquired under rights for temporary possession and use of land (schedule 15) as opposed to the permanent acquisition as currently set out in the bill (schedule 5).
26. Your petitioners have been trying to obtain mortgage re-finance before the HS2 detail plans were deposited. Since the detail plans have been deposited and our Property has been specifically identified in the Bill the mortgage and or sale of our property has been severely hampered to the point of being practically impossible. This is because the compulsory purchase of land parcel 403 in its entirety would render it impossible to enter or leave our Property. Consequently our solicitor is unable to confirm a clear title to any prospective mortgage lender while land parcel 403 is specified in the Bill for compulsory purchase (the wording of the Bill carrying more weight than an explanatory email from HS2 engineers as per paragraphs 17 and 18 above).
- Your petitioners are therefore unable to obtain any re-mortgage funding on our property and furthermore if we were trying to sell our Property we would only be able to do so to a cash buyers (mortgage funding being unavailable to a property without a clean and mortgagable title).
27. The above is equally applicable to all 11 houses in the terrace with land parcels numbered 401 to 411. All these terraced houses are affected by blight as a result of the Bill and yet the land being compulsorily acquired is not specifically required for the construction of the tunnel or its enablement.

28. What is to happen to the land forming our front drives once the utilities have been diverted? If the nominated undertaker has acquired our land under CPO powers then there does not seem to be anything in the Bill which requires that this land specifically must be put back to its original condition and handed back to its original owner. If HS2 owns the land once the utility diversions are completed then HS2 would most likely be required to sell the land for best value and not necessarily to its original owner - this will potentially mean that I am not able to purchase my front drive back and am landlocked as a result.
29. If the existing utilities in the land being CPO'ed are to be diverted then this is no reason to require a permanent CPO of the land containing those utilities – the utilities will be adopted when the diversion works are completed and it would be inappropriate to use CPO powers simply for the purpose of adopting newly diverted utilities.
30. The acquisition of my Property is a waste of public funds because the same goal can be achieved without acquiring My Property. CPO of 401 to 411 adds to the cost of the Bill unnecessarily.
31. Your Petitioners object to the powers that are proposed to be provided by the Bill to the Secretary of State and the Nominated Undertaker and respectfully submit that the Bill should be amended or undertakings should be required to be given so that HS2 Limited, the Secretary of State and/or the Nominated Undertaker must:
 - a. Clarify the exact reason land 401 to 411 has been included in the bill.
 - b. Confirm if land 401 to 411 is required on a permanent or a temporary basis.
 - c. If the land numbered 401-411 is only required temporarily then your petitioners respectfully submit that the Bill should be amended to list the land numbered 401 to 411 under schedule 15 (Temporary possession of land), Part 4 (land which may be used for construction of works), for the “provision of drainage and associated works”.
 - d. Schedule 5 is amended so that land may only be acquired for the express purpose stated in schedule 5 of the bill. Such an amendment will serve to protect property owned by the general public from potential abuse of the compulsory purchase powers granted in the Bill by avoiding land being permanently acquired when it is not strictly required for the completion of the HS2 works in themselves.
 - e. The Bill is amended so that the Thames Water adopted drains are compulsory purchased for a temporary period rather than the private land numbered 401 to 411 in which the adopted drains sit.

- f. HS2 and the nominated undertaker consider an alternative approach whereby works to the Thames Water drains are undertaken by Thames Water with an indemnity for costs and compensation certified by HS2. Such an arrangement between HS2 and Thames Water would be much more appropriate than compulsory purchasing the land on which the adopted drains lie.

32. There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioners and their rights, interests and property and for which no adequate provision is made to protect your Petitioners.

YOUR PETITIONERS therefore humbly pray your Honourable House that the Bill may not be allowed to pass into law as it now stands and that they may be heard by Themselves and witnesses in support of the allegations of this Petition against so much of the Bill as affects the property, rights and interests of your Petitioners and in support of such other clauses and provisions as may be necessary or expedient for their protection, or that such other relief may be given to your Petitioner in the premises as your Honourable House shall deem meet.

AND your Petitioners will ever pray, &c.

Signed

Signed

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AGAINST &c.

